IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 1ST FEBRUARY 2007 / 12TH MAGHA 1928

L.A.APPEAL No.777 of 2005(D)

(AGAINST THE JUDGMENT AND DECREE DATED 19.3.2004 IN L.A.R.NO.89 OF 2002 OF THE COURT OF THE SUBORDINATE JUDGE, CHERTHALA).

APPELLANT: 2ND RESPONDENT:-

THE MANAGING DIRECTOR,
K.S.I.D.C. THIRUVANANTHAPURAM.

BY ADV. SRI.G.S.REGHUNATH

RESPONDENTS: CLAIMANTS AND IST RESPONDENT:-

1. DINAMONY, NIVARTHIL,
THURAVOOR, CHERTHALA TALUK.

2. DINESAN, DO. DO.

3. SUNIL KUMAR, OF DO. DO. DO.

4. KERALA STATE,
REP. BY THE SPECIAL TAHSILDAR (LA),
INDUSTRIAL GROWTH CENTRE, CHERTHALA.

R1 TO R3 BY ADV. SRI.V.L.SHENOY
R4 BY GOVERNMENT PLEADER SRI.L.G.SURESH BABU.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 01/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

P.R.Raman,J.

L.A.A.No.777 of 2005-D

Dated, this the 1st day of February, 2007

JUDGMENT

This appeal is against the award in L.A.R.No.89 of 2002 on the file of Sub Court, Cherthala. The 2nd respondent in the L.A.R. is the appellant herein. The challenge is against the enhancement of the compensation awarded by the Court below. The Court below has placed reliance on the judgment in L.A.R.No.56 of 2001. It is found that L.A.R.56 of 2001 was challenged by the appellant in W.P.(C).No.34872 of 2003 and by judgment dated 19.10.2004, the said writ petition was allowed and the matter has been remanded. As such the foundation of this judgment being based on L.A.R.No.56 of 2001, which has since been set aside, necessarily the appeal has to be allowed by way of remand for consideration of the matter afresh.

In the result, this appeal is allowed. The judgment and decree passed by the Court below are set aside and the matter is remanded to the Court below for fresh consideration. It will be open to the parties to adduce any further evidence, if they so desire. The parties shall appear before the Court below on 7th

March, 2007. The Court fee paid shall be refunded. I.A.No.2005 of 2005 shall stand dismissed.

P.R.Raman

vku/- Judge